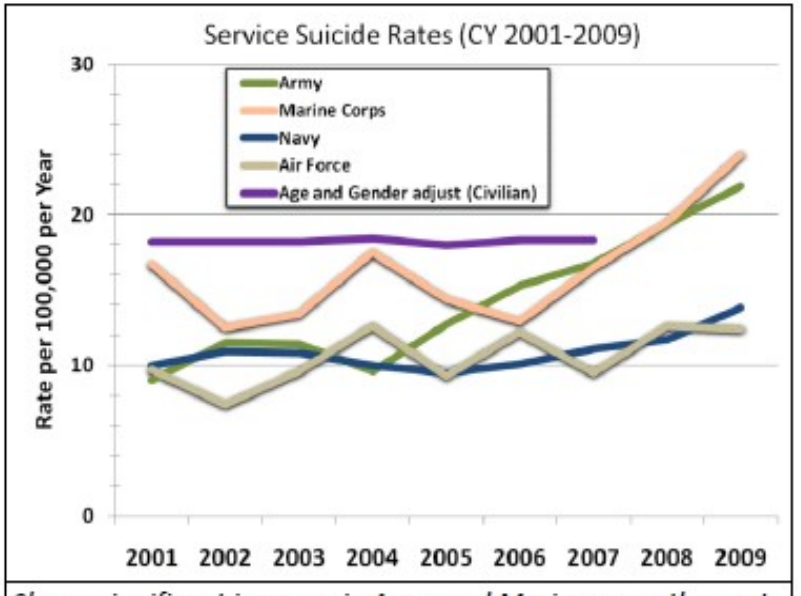
Communication of Protected Health Information and Command Directed Mental Health Evaluations

Terminal Learning Objective

- Given a Soldier needing mental health assistance, utilize proper procedures for requesting a Command Directed Mental Evaluation (CDMHE) IAW Department of Defense (DoD) Directive 6490.01, Mental Health Evaluations of Members of the Armed Forces, 1 October 1997 while safeguarding Protected Health Information (PHI).

Scope of the Problem

- Multiple deployers are at increased risk for BH concerns.
- The stigma of BH continues to pose an obstacle to getting help.
- The complex problem of suicide requires constant vigilance.



Shows significant increase in Army and Marines over the past five years.

Source: 2010 US Army Health Promotion, Risk Reduction, ar Suicide Prevention Report

Balancing Privacy with Disclosure of PHI

More willing to seek help if information is kept private

Less willing to seek help if information is not kept private

Medical Awarenes s

Stigm a

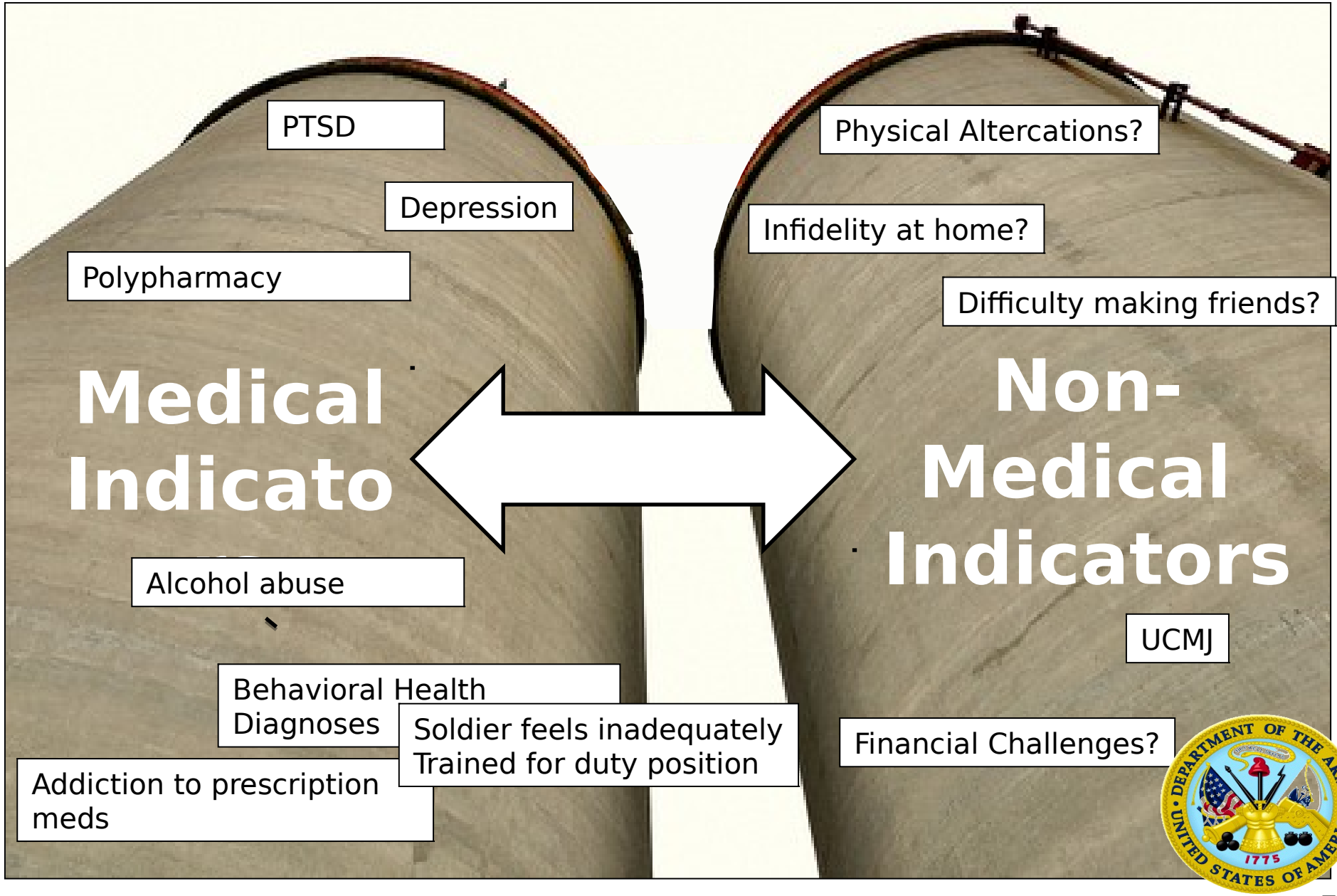
Comman d Awarenes s

Help-seeking Behavior is a good thing!

More awareness of individual patients
does not necessarily decrease risk
in the general population

SIFIED

Information Silos



TBD

BH Care Portals and PHI

- PHI disclosure to Command might depend upon how and why the Soldier accesses BH care

Command Referral

Why:

- Potential and likelihood to harm self or others
- Soldier displays excessive sadness or recent behavioral changes
- Recent or unusual withdrawal from others
- Excessive angry outbursts or irritability
- Decrease in job performance
- Persistent or recent “at-risk” family issues

Self Referral

Why:

- Soldier deems he/she needs assistance
- Command/leaders encourage Soldier to seek assistance (non-emergency)
- Chaplains/ACS and other agencies assist the Soldier in accessing care

Medical Referral

Why:

- Healthcare provider refers Soldier for specialty care
- Deployment health assessment referral mechanism

BH Self Referrals and Protected Health Information (PHI)

- Soldiers should always be encouraged to seek BH care as a self-referral before psychological concerns become unbearable or overwhelming.
- Commanders can always receive the following minimum essential information for any healthcare:
  - General Health Status
  - Scheduled appointments and appointment reminders
  - Kept appointments
  - Profile Status
- Information discussed with a BH provider is considered confidential communication and not routinely disclosed to others outside the treatment without the express written consent of the Soldier.

BH Self Referrals and Protected Health Information (PHI)

- Exceptions to confidential BH communication:
  - Harm to Self
  - Harm to Others
  - Harm to Mission
  - Special Personnel – Personnel Reliability Program or other potentially sensitive mission responsibilities
  - Hospitalization
  - Substance Abuse Treatment

- The BH provider is required to notify the Commander within 24-hours of the appointment if any of these exceptions apply.

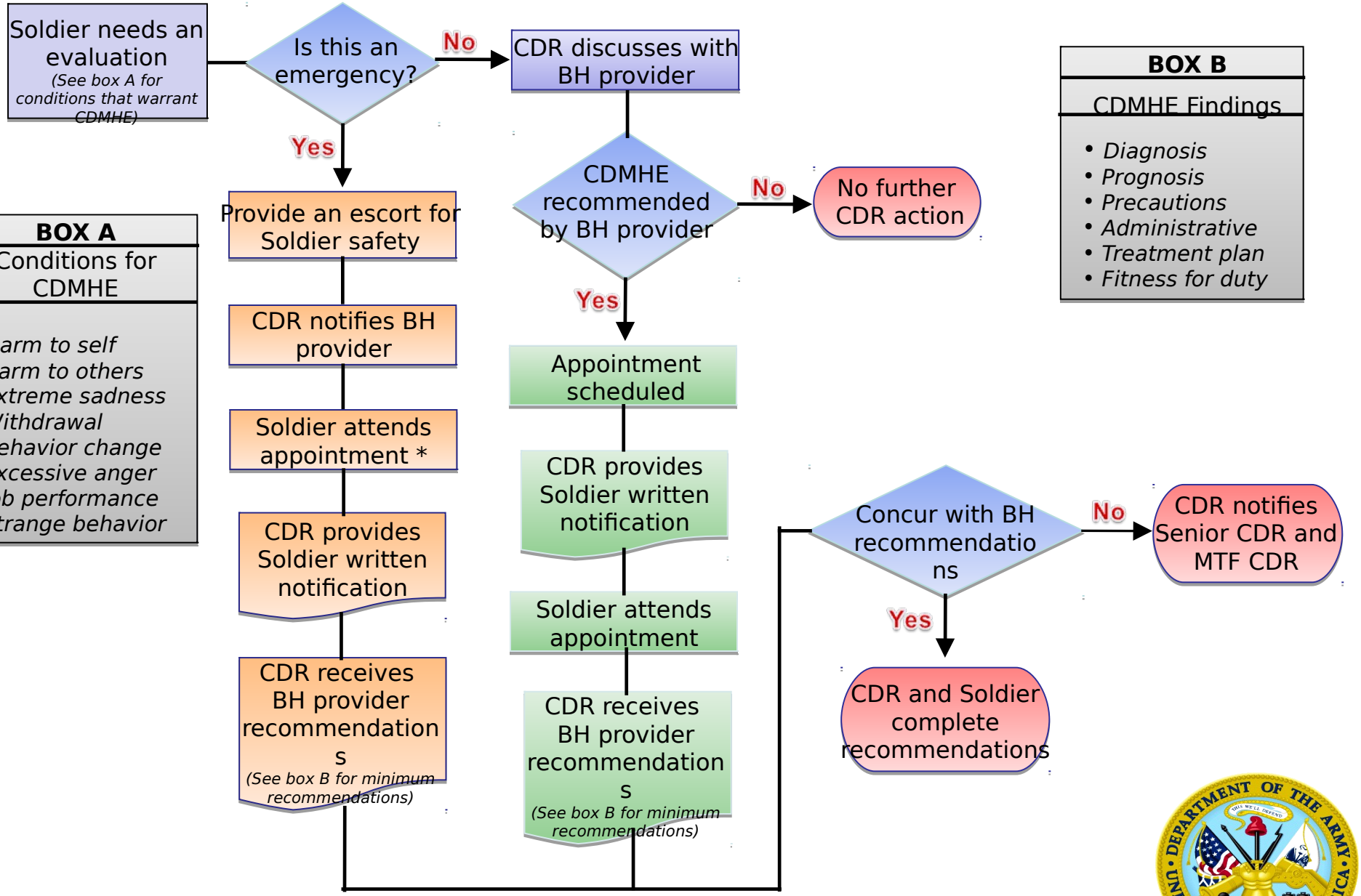
Conditions to Consider for CDMHE

- Potential and likelihood to harm self or others.
- Soldier displays excessive sadness.
- Recent or unusual withdrawal from others.
- Recent behavioral changes.
- Excessive angry outbursts or irritability.
- Decrease in job performance.
- Persistent or recent “at-risk” family issues.

CDMHE Procedures

- Consult with behavioral health (BH) provider, if not available, consult with physician or senior confidential non-physician provider.
- BH provider will provide advice or recommendations about whether the evaluation should be conducted **ROUTINELY** or on an **EMERGENCY** basis.
- Commander forwards memorandum requesting CDMHE to clinic or Medical Treatment Facility (MTF).
- BH provider conducts mental health evaluation.
- BH provider submits written feedback to Commander.
- Commander will follow thru with advice or recommendations from BH provider.

Command Directed Mental Health Evaluation Decision Tree



** Soldier may attend appointment prior to Commander's written notification due to imminent danger associated with emergency CDMHE*

Conducting an Emergency CDMHE Referral

- **First priority is to protect the Soldier and other potential victims from harm.**
- Have Soldier escorted to the nearest BH provider.
- Provide the Soldier a memorandum and statement of rights, as soon as practical.
- Discuss with BH provider the statements or behaviors that prompted the CDMHE emergency referral.

Conducting a Routine CDMHE Referral

- Provide the Soldier with written notification of the reason for the CDMHE and the date, time, and location of the evaluation at least **two business days** before the scheduled appointment.
- A Commander may NOT restrict a Soldier from lawfully communicating with the Inspector General, an attorney, Member of Congress or other person about the referral for mental health evaluation.
- Use of escorts is recommended but not required.

CDMHE BH Response (1 of 2)

- BH provider will provide a written response to the Commander within **one business day** after completing the CDMHE. Information provided will include:
  - Soldier's diagnosis
  - Soldier's prognosis
  - Recommended treatment plan
  - Suitability for continued service

CDMHE BH Response (2 of 2)

- Additional Recommendations
  - Recommended precautions:
    - Move into barracks for a defined period of time.
    - An order to avoid the use of alcohol.
    - An order not to handle firearms or other weapons.
    - An order not to contact potential victim or victims.
  - Recommended administrative management of the Soldier (i.e., administrative separation).
  - Recommendations regarding restricted access to classified information, if appropriate.
  - Recommendations regarding fitness for duty.

Commander Actions

- Review mental health findings.
- Implement recommendations.
- Continue communication/consultation
  - Provider and commander will discuss patient care, impact diagnosis may have on current missions, collaboration on treatment plan

- Protect a Soldier's health information – Information should be shared with others (e.g., subordinates or supervisors) ONLY on a need to know basis.

Actions when a Commander Non-concurs with CDMHE Recommendations

- If a Commander does not concur with the BH provider's CDMHE recommendations:
  - Provide written notification to the next senior Commander within two business days.
  - Describe reasons for non-concurrence.
  - Submit notification to MTF Commander.

- Continue to communicate with the BH provider to promote collaboration and successful management of the Soldier.

10 Things to Know about PHI

1. MTFs must take reasonable steps to limit the disclosure of PHI to the minimum necessary to accomplish the intended purpose. Healthcare (HC) providers must balance notification of Commanders with operational risk.

2. HC providers must not limit communication to “sick call slips” alone.

3. HC providers **will not** communicate the **reason** for medical appointments, routine medical care, the clinical service seen nor specific details about particular appointments (exception #5).

4. HC providers **will not notify** Commanders when a Soldier’s medical condition does not affect the Soldier’s fitness for duty/mission are not provided to the unit

5. HC providers **will notify** Commanders when a Soldier obtains behavioral health care under the following circumstances: **Harm to Self, Harm to Others, Harm to Mission, Hospitalization, Substance Abuse Treatment or for personnel enrolled in the Personnel Reliability Program.**

10 Things to Know about PHI

status due to medical conditions: **Inpatient Care, Substance Abuse Treatment (ASAP), missed appointments**

7. HC providers **will notify** Commanders about MEB/PEB related data

8. HC providers **will notify** Commanders about **Acute Medical Conditions Interfering with Duty/Mission** and duty limiting conditions.

9. HC providers **will notify** Commanders the results of **Command Directed Mental Health Evaluations**.

10. Commanders should also share information with providers relating changes in Soldier behavior or other information that could impact a diagnosis or treatment: UCMJ, physical altercations, infidelity, financial challenges, Soldier feelings of inadequacy, or when the Soldier has a significant change in social contacts.

Review of Key Points

- The CDMHE is a Commander's tool to refer a Soldier for a Mental Health Evaluation.
- Commander's are responsible for advising the Soldier of his rights and protections when referred for a CDMHE.
- BH providers are required to provide Commander's with written feedback following a CDMHE.
- In certain situations BH PHI will be released to Commander's for self-referrals.
- Commander's must take all precautions to protect a Soldier's PHI.
- Constant and regular communication with the BH provider is the key to a solid collaborative relationship to help Soldiers in need of BH assistance.

REFERENCES

- DoD Directive 6490.1, “Mental Health Evaluations of Members of the Armed Forces.” October 1, 1997
- DoD Instruction 6490.4, “Requirements for Mental Health Evaluations of Members of the Armed Forces,” August 18, 1997
- Section 546 Public Law 102-484, “National Defense Authorization Act for Fiscal Year 1993,” October 23, 1992
- DoD Directive 7050.6, “Military Whistleblower Protection,” August 12, 1995
- MEDCOM 40-38, Command Directed Mental Health Evaluations, 1 SEP 01.
- OTSG/MEDCOM Policy 10-042, Release of Protected Health Information (PHI) to Unit Command Officials, 30 June 2010.